

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 50094	DATE	10/7/2004
CASE TITLE	United States vs. Woods		

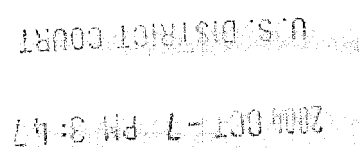
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] For the reasons stated on the reverse memorandum opinion and order, the court grants the motion to dismiss Woods' § 2255 motion. The government is to either move to withdraw its motion to resentence or advise the court if it wishes to proceed with that motion within seven(7) days.

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

No notices required, advised in open court.		3 number of notices	Document Number  20
No notices required.		date docketed	
Notices mailed by judge's staff.		docketing deputy initials	
Notified counsel by telephone.		10-8-04 date mailed notice	
X Docketing to mail notices.		mailing deputy initials	
Mail AO 450 form.			
X Copy to judge/magistrate judge. ✓			
LC	courtroom deputy's initials	Date/time received in central Clerk's Office	

## MEMORANDUM OPINION AND ORDER

Curtis Woods, a federal prisoner, filed a pro se motion pursuant to 28 U.S.C. § 2255, raising four issues all related to his sentence ( three of which are based on ineffective assistance of counsel) which followed his guilty plea. The government has filed a motion to dismiss, contending that Woods is barred from seeking relief related to his sentence via a § 2255 motion because of an express waiver of the right to do so in his written plea agreement. Woods also, violation of his express waiver of his right to appeal, filed an appeal which was dismissed upon the filing of an Anders brief. See United States v. Woods, 2003 WL 463469, unpublished order (Feb. 21, 2003). Woods, who is now represented by counsel, has filed a brief in opposition to the motion to dismiss.

A waiver of the right to seek relief pursuant to § 2255 in a written plea agreement is valid and enforceable absent a claim that the waiver was not knowing and voluntary or that counsel was ineffective in connection with the negotiation of the waiver itself. Mason v. United States, 211 F. 3d 1065, 1069 (7<sup>th</sup> Cir. 2000).

Here, Woods' plea agreement expressly waives his right "to challenge his sentence or the manner in which it was determined in any collateral attack, including but not limited to, a motion under [§ 2255]." All of the issues Woods seeks to raise in his § 2255 motion fall squarely within the waiver language of his plea agreement. Further, Woods does not raise any issue that his counsel was ineffective in any way as to the negotiation of the waiver or that his waiver was not knowing and voluntary. Additionally, during the Rule 11 colloquy, Woods stated that he understood that as part of his plea agreement he was giving up his right to pursue any § 2255 remedy as to his sentence. As for the issue of the additional conviction that came up after he entered the plea agreement, Woods persisted in his plea agreement even after discussing the issue with his attorney and being given the opportunity to move to withdraw his plea of guilty. Thus, the court grants the government's motion to dismiss Woods' § 2255 motion.